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S E C R E T SECTION 01 OF 02 BAGHDAD 002866

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TAGS: [PGOV](#) [PTER](#) [KJUS](#) [IZ](#)  
SUBJECT: NINEWA: TRAVELING JUDGES ARE A SHORT-TERM FIX BUT  
NOT A LONG TERM SOLUTION

REF: A. BAGHDAD 396  
[1](#)B. 07 BAGHDAD 3572

Classified By: PRT Ninewa leader Alex Laskaris for reasons 1.4 (b,d).

This is a Ninewa Provincial Reconstruction Team (PRT) message

[1](#)1. (S) Summary. A panel of four traveling Baghdad trial judges did what the provincial justice system has failed to do over the last year: convict and sentence defendants guilty of terrorism-related offenses. Staying on the PRT, travelling to the Mosul court in 3rd ACR convoys, and working under the protection of the ISF, the judges heard 27 cases, delivering 13 guilty verdicts. The judges were highly critical of their local counterparts, accusing them of terrorist sympathies and corruption. They believe that good judges afforded full protection (including of families) is critical to a long term solution. We are grateful to Embassy Baghdad for its support for the traveling judge program, and hope that it can continue to make the case to the GOI that this is an important component of our COIN and longer term rule of law efforts. We should publicize the results of this initiative, but only in a manner that does not increase threats to the judges. GOI funding and buy-in from the local judiciary for the proposed Mosul rule of law complex would contribute to the longer-term reform prospects. End Summary.

Traveling Road Show Redux  
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[1](#)2. (C) For the third time in a year, a panel of traveling judges has travelled to Ninewa to hear terrorism cases (Ref A and B) due to the zero percent conviction rate of individuals on terrorism-related charges. The failure of Mosul trial judges to try and convict terrorists is not a recent phenomenon. Iraqi Chief Justice Medhat has previously sent five panels of trial judges from Baghdad to serve in Mosul on a rotating basis from December 2006, through July 2007; the last panel from Baghdad served here in February 2008. After lobbying by the Embassy and Coalition Forces (CF), Chief Justice Medhat sent four Baghdad judges to Mosul on August 14 to hear terrorism-related cases. The PRT again hosted the traveling judges, and CF transported the judges to the Mosul Major Crimes Court (MCC). The ISF has cooperated with the CF to provide security inside the court. Four investigative judges from Baghdad were also dispatched to Ninewa and worked closely with the trial judges to prepare cases for trial.

Temporary Judges Show Immediate, Positive Results  
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[1](#)3. (U) The Baghdad trial judges had an immediate, positive effect. On the first day of trials, the judges handed down seven convictions out of nine cases for Article Four (terrorism) offenses, resulting in one death sentence, five

life sentences, and one five-year sentence. The judges sent two cases to juvenile court since the defendants were minors. The second day of trials was less positive, with the judges dismissing five cases for lack of evidence and sending one case back to investigators for more work. Notably, the cases heard on the second day were all former IP and IA personnel. On August 27, the judges heard nine cases, which resulted in three convictions (one life sentence, one 15-year sentence, and one five-year sentence), five dismissals due to lack of evidence, and one case rescheduled for trial. On August 28, the judges heard three cases, delivering one death sentence and two 15-year prison sentences.

Local Judges, Lawyers Don't Roll Out the Welcome Wagon  
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¶4. (C) Mosul Major Criminal Court (MCC) judges have been generally uncooperative with the Baghdad judges and at times antagonistic, questioning their motives. Mosul's defense attorneys were also an obstacle for the panel. They initially failed to arrive for court in a timely fashion, and several attempted to withdraw, claiming conflict of interest. After a call from the chief visiting judge, Mosul Chief Judge Faisal directed two defense attorneys to participate. In the past, the Mosul Bar Association has actively resisted the traveling judges, going so far as to boycott trials. However, the Iraqi Bar Association intervened and, on the threat of disbarment, the Mosul attorneys returned to the courtroom.

Baghdad Judges Outline Concerns

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¶5. (S) The PRT hosted a meeting between the visiting trial and investigative judges and 1AD DCG BG Thomas and 3 ACR RCO COL Bills on August 24 at the PRT to discuss the current status of the Ninewa criminal justice system. The judges were critical of the Mosul MCC judges, describing a lack of commitment and loyalty, and expressing a belief that many local judges were at least sympathetic to insurgents. They believe that Ninewa has the worst judiciary of any province in Iraq; noting that Anbar has 31 judges and Salahuddin has 28 judges, and they do far more work than Ninewa's more than 47 judges. All agreed that a policy of regularly rotating judges to Mosul from other provinces would do a lot to improve the delivery of justice since those judge would be objective and relatively free from intimidation or cooptation. They also recommended the construction of a secure judicial facility that would house trial judges and their families because the lack of basic security adversely affects judges, ability to perform their duties. BG Thomas suggested publicizing the results of the trial as a deterrent, and the judges agreed, asking only that their identities be protected. They said that verdicts are often publicized in Baghdad.

¶6. (S) The judges were also critical of the quality of investigations conducted by the IA and IP. They regard IP and IA investigators as unmotivated and as generally poorly trained and equipped to conduct these critical criminal investigations. Investigations are conducted haphazardly, and investigators fail to collect basic physical evidence and photos. Witness statements are poorly prepared and lack essential information. The judges support training for the IA and IP and are willing to participate in training them, but believe that the ISF in Mosul are involved in terrorism and extortion and that the local judges are corrupt and refuse to do their jobs.

Comment  
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¶7. (C) This program is a success within a broader failure of the GOI to enforce the rule of law in Ninewa Province. Our

response will have to be along two tracks. First, we need to continue the practice of rotating Baghdad judges into Mosul to hear terrorism-related cases. The PRT, along with 3rd ACR and IAD, will continue to support such visits as required by the caseload of the MCC. On a broader scale, this visit brought into high relief the failures of the Ninewa judicial system: corruption, intimidation, and terrorist sympathies coupled with an outdated legal code, untrained staff, and a justice system that remains reliant on confessions rather than the integration of police, prosecutors, and judges.

18. (c) We should publicize these results, although it is imperative that we do so in a way that does not increase the threat level to the traveling judges or their families. Longer term, GOI movement on the proposed Mosul rule of law complex would also contribute to our efforts in this field. The space has been set aside, although the local judiciary is opposed to both the location and magnitude of the project. Even though the current Mosul judiciary cannot or will not pursue terrorist-related case, Mosul will need a secure facility to conduct trials, house judges, and hold detainees. CROCKER